IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4043 OF 2006

Shri Bhailal Solanki .. Petitioner.
Vs.
M/s.H.A.Karolia & Sons & Ors. .. Respondents.

Mrs.Bharati Laskar for the petitioner.
Mr.S.B.Pakarne for the respondents.

CORAM : D.B.BHOSALE, J.

DATED : 10TH OCTOBER, 2006

P.C.:

. Heard learned counsel for the petitioner and the respondents.

2. Rule, returnable forthwith. By consent of the parties taken up for final hearing. Mr.Pakarne, learned counsel waives service for the respondents.

3. By this writ petition, the petitioner has impugned the order dated 2.5.2006 passed by the City Civil Court, dismissing the Chamber Summons No.194 of 2004 filed by the petitioner in suit No.5058 of 2004. By the chamber summons the petitioner sought to add one Shaikh Ahmed Hassan Karolia as the defendant and the consequential amendment in the body of the plaint in view of the written statement filed by the

defendant disclosing that the said Shaikh is the owner of the suit property. The court below has rejected the application holding that no case is made out that the plaintiff would be dispossessed at the instance of the proposed defendant and hence the amendment cannot be allowed. On careful reading of the proposed amendment coupled with the averments in the suit, in my opinion, the amendment is necessary for the purpose of determining the real questions in controversy between the parties and in any case, looking to the stage of the proceedings, no prejudice will be caused to the defendants. The defendants will have a liberty to file additional written statement, if they so desire. In the circumstances this writ petition is allowed. The impugned order is set aside. The Chamber Summons stands allowed. The plaintiff to carry out amendment within two weeks from the date of receipt of this order. It is open for the defendants to file additional written statement, if they so desire, within four weeks from the date of carrying out the amendment by the petitioner-plaintiff.

. Rule is, accordingly, disposed of in the aforesaid terms. No costs.

(D.B.Bhosale, J.)